

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

**FILE: B-207123**

**DATE: December 14, 1982**

**MATTER OF: James E. Massey**

**DIGEST:**

The consecutive 30-day maximum period for temporary quarters subsistence expenses does not run during the period that an employee is on temporary duty travel and his minor son lives with relatives. For the purpose of subsistence expenses and the 30-day limitation, the son did not occupy temporary quarters while residing with relatives, since his stay with them was not incident to a transfer of permanent duty stations.

A period of temporary duty performed by an employee while his minor son resided with relatives need not be included in the 30-consecutive day period allowed for temporary quarters subsistence expenses authorized for civilian employees of the Government when a permanent change of station is ordered.

**Background**

Mr. James E. Massey, a civilian employee of the Defense Logistics Agency, was transferred by permanent change-of-station orders from Seoul, Korea, to Arlington, Virginia. His orders authorized 30 days temporary quarters subsistence expenses. He is a single parent with a minor son. The son, who had lived with him in Korea, accompanied him on the transfer. They occupied temporary quarters in the vicinity of Arlington for a period ending August 23, 1981. From August 24 through September 14, 1981, Mr. Massey traveled on temporary duty. His son stayed with relatives in Baltimore, Maryland, during this period. On completion of the temporary duty, they moved back to temporary quarters where they remained until November 9, 1981.

Mr. Massey was paid temporary quarters subsistence expenses for the time he occupied temporary quarters between August 1 and August 23. The Accounting and Finance Officer questioned his claim for the period September 14, through September 30, and requested a decision from the Comptroller General through the Per Diem, Travel and Transportation

Allowance Committee (PDTATAC Control No. 82-9), on whether the 30-consecutive day period had been interrupted by the temporary duty assignment while the dependent resided with relatives.

Applicable Law

When it is necessary to occupy temporary quarters incident to an employee's transfer between permanent duty stations, temporary quarters subsistence expenses may be authorized under Chapter 13 of the Joint Travel Regulations, Volume 2 (2 JTR). See paragraph C13000 of Chapter 13, 2 JTR. They are payable for a maximum period of 30 days if the transfer is between a foreign country and the contiguous United States, as provided in paragraph C13004, 2 JTR.

Ordinarily the maximum period runs for consecutive calendar days from the time temporary quarters are first occupied by either the employee or his dependents whether separately or together. Paragraph C13005, 2 JTR. However, an exception is provided in subparagraph C13005a allowing an interruption and extension of the 30 calendar days:

"a. Exceptions. An exception to the cumulative concurrent time period is allowed if an employee alone is occupying temporary quarters at the new duty station, and the period of eligibility is interrupted for reasons of official necessity. Examples of an interruption to the period of consecutive days due to official necessity are compliance with an intervening temporary duty assignment \* \* \*. In such a circumstance, the period of absence will be excluded from the authorized time for occupancy of temporary quarters. The employee will be eligible for temporary quarters subsistence expenses when occupancy of temporary quarters at the new duty station is resumed, and eligibility will continue for the balance of the authorized time, if necessary. Exception will not be made if dependents occupy temporary quarters at the employee's new duty station, or at some other location, during the employee's temporary duty \* \* \*." (Emphasis added.)

B-207123

The Accounting and Finance Officer questions whether the 30-day period should be interrupted by Mr. Massey's temporary duty because the fact that his son lived with relatives in Baltimore could be construed as living in temporary quarters.

Our decisions have held that temporary quarters for the purpose of reimbursing subsistence expenses are lodgings which are used only in connection with a transfer of permanent duty station. They are used only because of the transition period needed to change permanent residence between old and new duty stations. See B-165902, January 23, 1969, and B-167976, October 30, 1969.

In our decision B-171715, February 29, 1971, we concluded that when an employee performs travel incident to temporary duty after he has begun to occupy temporary quarters, time spent in such travel while neither the employee nor a member of the family is claiming or occupying quarters should not be counted in determining when the maximum period for reimbursement under the regulations expires.

This decision was reflected in the pertinent regulations until 1980. Prior to this, the regulations provided with regard to intervening temporary duty that:

"Exceptions will not be made if dependents occupy temporary quarters for which temporary quarters subsistence expense reimbursement is claimed, at the employee's new duty station location or at some other place because the employee is on temporary duty assignment \* \* \*."  
2 JTR 13001-1-3-b, ch. 160, February 1, 1979.

As can be seen, this former provision contemplates continued running of the 30-day period while an employee is on temporary duty and the dependents occupy temporary quarters only if the expenses are actually claimed. If expenses are not claimed for this period then this time is excluded from the 30-day period. While we are not aware of why this language was deleted in the regulation, in effect during the period of Mr. Massey's claim, we can only consider it to be an inadvertent omission.

B-207123

Further, when applying our decision B-171715, February 29, 1971, to the facts in this case, the reasonableness of the rule becomes more evident. It would in our opinion be unreasonable to preclude an employee, who is a single parent with dependent children, from electing to claim or not claim temporary quarters subsistence expense with regard to his dependent while the employee is on a temporary duty assignment away from the new station.

Accordingly, the period of temporary duty may be excluded from the 30-day period for both Mr. Massey and his dependent. In this regard, the record is not entirely clear as to how much of the 30 days had been used prior to the temporary duty. Therefore, we can only emphasize that the entitlement is for only 30 days.

*for* *Milton J. Dorlan*  
Comptroller General  
of the United States